

## **HCFA's Response to ASHA - RE: Enforcement of Medicaid Provider Qualification Regulations**

December 4, 1998

Ms. Nancy B. Swigert

President

American Speech-Language-Hearing Association

10801 Rockville Pike

Rockville, Maryland 20852-3279

Dear Ms. Swigert:

Thank you for your letter concerning the States' interpretation of provider qualifications for speech/language pathologists and audiologists in the Medicaid program. You indicate that the American Speech-Language Hearing Association (ASHA) believes States are substituting or adding their own provider qualifications for "speech pathologists" and "audiologists" to their State Medicaid regulations rather than adhering to those found in Federal regulations, and you request that the Health Care Financing Administration (HCFA) investigate your concerns.

We agree that Medicaid services should be delivered by qualified speech pathologists and audiologists who meet the requirements contained in Federal regulation. For example, in 1997, we issued correspondence to all HCFA regional offices (ROs) clarifying Federal requirements for the provision of services provided by speech pathologists. That correspondence restated HCFA's policy that the specific qualifications at 42 CFR 440.110(c) must be met by providers of speech pathology/audiology services in order to maintain quality assurance, regardless of the benefit authority used for coverage under Medicaid. The provider qualifications for speech pathology services at 42 CFR 440.110(c) apply even when the services are covered in the State's Medicaid plan under another benefit category (such as the optional rehabilitation benefit). We believe that by requiring States to adhere to this

policy, we are assured that quality is not compromised by allowing less stringent provider qualifications to apply with respect to services for which very specific qualifications were developed.

Some States have requested and received HCFA's approval to cover services provided by credentialed, certified, or State licensed individuals. In these instances, we have required States to provide justification how the standards relating to the qualifications of speech pathologists/audiologists are reasonable in light of Federal Medicaid regulations (Federal regulations at 42 CFR 431.51(c)(2) provide that State agencies can set reasonable standards relating to provider qualifications). We required States to seek the opinion of their State Attorney General regarding the equivalency of provider qualifications to Federal rules by comparing the training and work requirements for ASHA certification to the State's provider qualifications.

We allowed a State's Attorney General to make an equivalency ruling in instances where rural areas have limited numbers of speech pathology providers. We also allowed for equivalency rulings on Department of Education (DOE) "certified" speech pathologists providing services in school based settings. Where a State's Attorney General has ruled that their provider requirements for speech pathologists/audiologists are equivalent to Medicaid requirements, Medicaid coverage has been allowed. However, without such an interpretation, we have not supported permitting certification, credentialing, or licensing by other agencies or departments to substitute for Medicaid standards in determining qualified providers. Permitting such differences could be considered a violation of the comparability requirements at 42 CFR 440.240 in that Medicaid recipients of speech-hearing-language services would not be treated by providers with the same qualifications depending on where the services are rendered.

The Federal regulations at 440.110(c) allow for services to be provided by or "under the direction of" : a speech pathologist or audiologist. While we have traditionally interpreted the term "under the direction of" a speech pathologist or audiologist to mean that the speech pathologist/audiologist

must see a patient at least once, have some input as to the type of care provided and review the patient after treatment has begun, and assume legal responsibility for the services provided, we believe that in cases where services are being provided under the direction of a licensed practitioner, it is reasonable for States to look to their own State practice laws to determine when services are appropriately provided "under the direction of" a qualified speech pathologist/ audiologist.

Many States are utilizing the "under the direction of" provision in the regulation to provide speech, language, and hearing services. States are becoming increasingly interested in providing school based services. In the last several years, we have seen a significant increase in the number of submissions of State plan amendments proposing coverage of Medicaid services in schools, particularly therapy services such as speech and audiology. This increased interest brought to our attention that some States are experiencing confusion when it comes to interpreting the policies outlined in HCFA's *Medicaid and School Health Technical Assistance Guide* . To alleviate some of the confusion, we are in the process of writing an addendum to the Guide including additional policy information and interpretations to help clarify Medicaid requirements relating to providing and reimbursing Medicaid school health services. We hope to have this addendum available on our web site shortly. My staff has been contacting HCFA ROs around the country to survey coverage policies and to offer policy clarification. It is our intention to provide States with whatever assistance necessary to assure adherence to Medicaid provider qualifications, coverage, and reimbursement requirements.

I appreciate your bringing ASHA's concerns to our attention. My staff will be looking into the issues raised in your letter to confirm that States are adhering to Medicaid regulatory requirements by permitting only those individuals qualified under 42 CFR 440.110(c) to provide speech pathology and audiology services.

Please feel free to contact Linda Peltz of my staff if you have any questions

or would like to discuss your concerns further. Linda may be reached by phone at (410) 786-3399, or by email at [LPeltz@hcfa.gov](mailto:LPeltz@hcfa.gov) .

Sincerely,

Sally K. Richardson  
Director

cc: HCFA Regional Administrators